

Determination.

5. Although the application herein was to be canvassed by way of written submissions, I note from the records that none of the parties have filed their respective submission. The only issue for determination is whether a joint account should be opened in the names of the Administrator herein in trust for the child L K.

6. From the affidavit, it is clear that there are differences between the administrators of the deceased's estate herein. These differences however should not hinder them from administering the estate of the deceased as required by law. It is their duty to preserve the estate of the deceased which estate has been properly described in the certificate of confirmation of grant. The issue of custody of the child herein should not even arise at this stage.

7. Section 79, 82 and 83 of the Law of succession Act Cap 160 explicitly outlines the duties and responsibilities of the Administrators/Executors. The administrators should be well versed with the provisions therein to be able to properly administer the estate of the deceased. It is also a crime to intermeddle with any property of a deceased as shown by the provisions of section 45 of the Law of Succession Act.

8. On the matter at hand, it is prudent and of utmost importance that death gratuity for L K be deposited in an interest earning account. The child is now sixteen (16) years or so and will soon be required to attend college. If the sum is left to just lie without earning any interest then it may not be enough to sustain her in school.

9. It is therefore ordered that the administrators jointly open an interest earning fixed deposit account where the child's death gratuity will be held until she attains the age of majority. The application by M K is allowed and A A K ordered to sign the bank papers for the fixed deposit account in trust for the child. If A fails to sign within the next 14 days from the date of this ruling then the Executive Officer of Kakamega High Court will be allowed to sign.

SIGNED, DATED at KAKAMEGA this 14TH day of NOVEMBER, 2016.

C. KARIUKI

JUDGE.

In the presence of:-

.....**In person** **Applicant.**

.....**In person****for the Respondent.**

.....**Anunda** **Court Assistant**